In the High Court of Uttaranchal, at Nainital.

A.O. No. 1113/2001
Old No. 197 of 1998

Kailash Nath Gupta and 2 others ……Appellants.

Vs.

Smt. Mehru B. Gupta and others …..Respondents.

Sri Jagdish Bisht in brief for Sri Sharad Sharma, learned Counsel for the appellants.

Sri S.N. Babulkar, Senior Advocate, learned counsel for the respondents.

Date: 1-12-2004

Coram: Hon'ble Mr. Justice Irshad Hussain, J.
Hon'ble B.S. Verma, J.

P.C.:

Heard Sri Jagdish Bisht in brief for Sri Sharad Sharma, learned counsel for the appellants and Sri S.N.Babul, Senior Advocate, learned counsel for the respondents.

2- This is an appeal under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 against the order of rejection of the application for temporary injunction. The suit is still pending disposal before the trial court. During the pendency of appeal an interim order was passed on 5.3.1998, whereby the respondents were restrained from dealing with the property in any manner whatsoever and not to execute any sale , mortgage or transfer deed of any kind with regard to the suit property. Considering the interim order passed in this appeal it will be just and proper to maintain this order till the disposal of the original suit by the trial court on merit.

3- In view of above the trial court is directed to expedite the disposal of the original suit no. 44 of 1996 Kailash Nath Gupta and 2 others vs. Smt. Mehru B. Gupta and 5 others, preferably, within a period of six months, from the receipt of the lower court record. The lower court record shall be remitted back immediately to the lower court. The interim order mentioned

above passed by this court shall continue to be operative till the decision in the suit on merit.

4- Parties are directed to appear before the trial court on 15.12.2004.

5- The appeal is finally disposed of accordingly.

(B.C. Verma, J.) **(Irshad Hussain, J.)**

Date: 1-12-2004

ISB